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Health and safety of vulnerable workers in a changing world of work

di Malcolm Sargeant

This is a very large topic to cover in a short presentation. I can only hope to cover an outline of the issues, but I would like to suggest a framework for consideration of this subject.

It is necessary to begin with some definitions of our terms. Here I refer to ‘vulnerable workers’ but it is also a term that is linked to the meaning of ‘precarious work’. The two terms, ‘vulnerable working’ and ‘precarious work’, are linked and sometimes used interchangeably.

Vulnerable workers: one UK Government report ⁽¹⁾ defined a vulnerable worker as “someone working in an environment where the risk of being denied employment rights is high and who does not have the capacity or means to protect themselves from that abuse”.

This definition makes clear that, firstly, a vulnerable worker is someone who has been denied, or is in a position where they can be denied, the employment protection which the law provides. Secondly, it states that the individual does not have the capacity or means to defend themselves from any abuse. There are, of course, degrees of vulnerability; some individuals and some groups are more exposed to abuse than others.

A newly arrived migrant worker, for example, might be regarded as highly vulnerable to abuse and exploitation. The International Labour Organisation has its own campaign on ‘Decent Work’. It

states that: “People throughout the world face deficits, gaps and exclusions in the form of unemployment and underemployment, poor quality and unproductive jobs, unsafe work and insecure income, rights which are denied, gender inequality, migrant workers who are exploited, lack of representation and voice, and inadequate protection and solidarity in the face of disease, disability and old age” ⁽²⁾.

The British Trades Union Congress set up a Commission on vulnerable workers ⁽³⁾. It categorised seven groups of workers in vulnerable employment. These were:

- agency workers;
- other ‘atypical workers’ (for example casual workers and some freelancers);
- young workers: who are not entitled to the same rates of the minimum wage as others and are more likely to face exploitation;
- industrial homeworkers: who are often denied even the most basic employment rights;
- unpaid family workers: employed across a range of businesses with no legal protection at work;
- recent migrants: who are more likely to face extreme discrimination, dangerous working conditions and a range of other abuses – including forced labour;
- informal workers: working across many industries, with those already facing disadvantage the most likely to be exploited.

Changing world of work

It is clear that the ‘world of work’ has changed and is changing. It is perhaps not only the change itself that is an issue, but also the speed of that change. There has been, of course, a significant growth of technology based industries and a shift in industrial production to China. We have in many places therefore a shift from industrial mass production to a service based society. Companies concentrate on their core competencies and outsource other functions and form chains of suppliers and sub-contractors. The resulting changes to contractual relationships has resulted in an increase in self-employment (especially for those without employees) and increases in those who work in part-time and temporary employment and in those who work long hours ⁽⁴⁾.

There are a number of employment relationships which have been described as coming within the term ‘precarious work’. Quinlan, Mayhew and Bohle ⁽⁵⁾ categorised them into five groups. These were:

- temporary workers; including short fixed-term contracts and casual workers;
- workers subject to organisational change; including re-structuring, downsizing and privatisation;
- outsourcing; including home working;
- part-time working;
- workers in small businesses; including self-employment.

A further study in the UK identified twelve different forms. These were self-employment, part-time work, temporary work, fixed-term contract work, zero hours contracts of employment, seasonal work, home working, teleworking, term time only working, Sunday working and job sharing ⁽⁶⁾.

The link between the changing world of work and increased flexibility in the workforce has, of course, been long recognised by the EU and the development of its policies on flexicurity, which seek to strike a balance between the growth of more flexible forms of the employment relationship and the need for security for workers ⁽⁷⁾.

Vulnerability and precariousness

Before we consider the health and safety issues arising, we need to focus on the link between the vulnerability of individuals and the precariousness of the work which they undertake. I suggest here

that it is the combination of these two factors that leads to increased health and safety risks at work (I do not suggest that these are the only factors, but they are the important ones for consideration here). If we consider an approach which I call ‘*factors of vulnerability*’ we can see how it is the combination of *personal factors*, related to the affected individual or group, combined with the *job factors*, concerned with the nature of the work, which lead to the *risk factors* which can affect the health and safety, amongst other matters, of the individual or group.

Further consideration of each of these factors leads to the following analysis (which is not intended to be comprehensive).

Personal factors	Job factors	Risk factors
Age (child, youth, old)	Employment status	Exploitation
Disability	Agency work	Isolation
Ethnicity/nationality	Casual work	Stress
Gender	Low skill	Insecurity
Religion	Outsourcing	Low protection
Sexual orientation	Temporary work	
Migration status	Trade unions	
Language		
Education		
Family status		

I now propose to consider some of these factors briefly.

Personal factors

The relevant personal factors chosen for this analysis are age (children, young and older workers); the existence of a disability; ethnicity and nationality; gender; religious belief, especially, the need or desire to wear outward symbols of one’s faith; sexual orientation (as well as gender identity); migration status; educational levels; and family status.

It is not possible to consider the vulnerability of workers without considering those areas in which discrimination against individuals and groups take place. Throughout the EU, of course, discrimination at work on the grounds of race, gender, disability, age, religion or belief and sexual orientation is unlawful. This is the reason that I have cho-

sen these headings. There are, of course, other grounds of discrimination which take place, e.g. on the basis of socio-economic class, but because of time and space I limit myself to these six grounds of unlawful discrimination. A good example of how widespread this is can be found in a recent Eurobarometer survey of opinion in the EU and three candidate countries ⁽⁸⁾. One of the questions asked was: “In our country, when a company wants to hire someone and has the choice between two candidates with equal skills and qualifications, which of the following criteria may, in your opinion, put one candidate at a disadvantage? (% age EU)”.

The responses were as follows (only included here are the characteristics mentioned above):

Criteria	% age EU
The candidate's age	48
The candidate's skin colour or ethnic origin	48
A disability	37
The expression of religious belief (e.g. wearing a visible religious symbol)	22
The candidate's gender	19
The candidate's sexual orientation	18

When asked the question “In the past 12 months have you personally felt discriminated against or harassed on the basis of at least one ground?” ⁽⁹⁾, the EU average response was 16% who answered yes. Those countries that were above the average were Italy (22%), Austria (22%), Hungary (20%), United Kingdom (20%), Sweden (20%), the Czech Republic (18%), Luxembourg (17%), Belgium (17%) and Slovakia (17%).

The importance of acknowledging this discrimination is that it is likely that the discrimination adds to the vulnerability of workers and subsequently to the risks that affect those vulnerable workers.

In the above list of personal factors, I included a number which are not covered by this survey, but are important when looking at individual characteristics that encourage vulnerability. Following paragraphs provide a list of them.

Migration status

There are numbers of studies about migrants in the EU ⁽¹⁰⁾. In *Counting the cost: working conditions of migrants* (2008) ⁽¹¹⁾ issues relating to detriment

in employment are considered. Despite the contribution that they make to their host countries, migrants often face serious labour market disadvantages. In job-seeking, for instance, a French survey found that men with French or European-sounding names were five times more likely to be called for interview than applicants with equivalent qualifications and experience, but with North African names. Overall, according to this study, migrants face a greater likelihood of unemployment than nationals, certain groups being especially disadvantaged – non-EU nationals, younger people, and women.

In many countries, migrant workers are more likely to work on fixed-term contracts, and less likely to be retained in employment. Some countries have a policy of issuing short-term work permits: hence, workers can only take jobs of limited duration. Many migrants work in seasonal sectors, and in some countries temporary employment agencies are a key recruiter of migrant workers. One Swedish study reported that migrant workers, as a group, have less job security, run the risk of more accidents at work and are generally more likely to be employed in unhealthy occupations. Working in such sectors also means that they are likely to be paid less.

The ILO report titled *Towards a fair deal for migrant workers in the global economy* ⁽¹²⁾ states that there are two aspects of health issues for migrant workers. The first is related to occupational health and safety (OHS) at the workplace; and the second concerns the general health condition of the migrant worker and her family. Health is an important issue because, as the Report states, migrant workers tend to be employed in high risk occupations; secondly that there are language and cultural barriers to OHS communication, in particular OHS training and instruction; and, thirdly, many of the migrant workers overwork and/or suffer from poor general health, and so are susceptible to occupational injuries and work-related diseases. The Report also states that “Occupational accident rates are about twice as high for migrant workers as for native workers in Europe, and there is no reason to believe that the situation is any different in other parts of the world”.

Language

This probably affects migrant workers the most. How is it possible to give adequate health and

safety training to workers who do not speak the language of the employer or the country in which they are working? The answer, of course, is that it is, but it takes an innovative and concerned employer to implement such programmes. One UK study ⁽¹³⁾ found that migrant workers particularly welcomed visual aids, as they could overcome the limitations that a lack of English presented. However, the greater the range of methods used to communicate, the more successful they were perceived to be by the workers interviewed.

Child labour

The issue of child labour was raised by a special ETUC youth seminar on the subject in 2000 in Lisbon ⁽¹⁴⁾. The report from the seminar states that “child labour in Europe is more prevalent than it appears” and that one of the biggest problems in tackling child labour issues stems from the fact that there are no precise statistics on how many children are being used for labour.

In 2001 an ILO report followed a survey of available data in the USA, Canada, the EU, Australia, New Zealand and Japan ⁽¹⁵⁾. Its analysis is really quite striking when it states: “It is likely that, whatever the published figures, more than half of all teenagers below the age of 18 are in the labour force in every industrialized country. In countries for which there is more detailed evidence, children commonly begin work by the time they are 15, although the type of work they do changes as they grow older”.

There appears to be a particular issue with regard to Roma children in some countries. The report suggests that Roma children start work early in the family business and, often, are in full-time work by the age of 12. It also states that there have been reports of Roma children being smuggled into Italy, for example, where they are coerced into working for criminal gangs. The Report, however, produces no evidence of this. It does, however, highlight Greece as a further country that has similar issues. Another group with distinctive child labour problems appears to be the ethnic Chinese population. This is because of the large number of family businesses that exist in which the children are expected to work.

In June 2002, Italy’s ISTAT statistical institute presented a study on the subject ⁽¹⁶⁾. It found that in Italy there were some 150,000 children aged between seven and 14 who worked, including around

32,000 who are subject to exploitation. Child labour is more common in the more economically developed regions of the country. According to a Eurofound report of an Italian study: “child labour in Italy is a phenomenon that is relatively little studied and difficult to analyse, owing to the fact that it is associated with illegal employment and is part of the clandestine, underground economy” ⁽¹⁷⁾.

Education and training

I do not explore this further in this paper, but there is a link between levels of education and job insecurity. It is also clear that those not in permanent employment are less likely to receive skills training and training in OHS.

Family status

I hypothesise here that women with dependent families are often at greater risk because, often, of their need to live apart from their families and work longer hours for low rewards. I have in mind here the situation of migrant women working in domestic service.

Job factors

Having looked at the individuals that make up the vulnerable workforce, our attention should turn to the type of work in which they are occupied. I refer to it here in the commonly used term ‘precarious work’. The relevant job factors in our study include employment status, agency work, casual work, low skills, language skills, outsourcing, the role of trade unions, and temporary work.

An analysis of OHS experts ⁽¹⁸⁾ asked in what way precarious work differed from standard work. They cited one study ⁽¹⁹⁾ which proposed four dimensions. These were:

- the low level of certainty over the continuity of employment;
- low individual and collective control over work (working conditions, income, working hours);
- low level of protection (social protection, protection against unemployment, or against discrimination);
- insufficient income or economic vulnerability.

The analysis further states that: “Precarious work takes different forms on today’s job market. In the scientific literature it is often associated with non-standard forms of work such as temporary, part-time, on-call, day-hire or short-term positions and also with the increase in the prevalence of self-

employment. Additionally, work at home and multiple jobs also contribute to the increasing significance of ‘non-standard’ forms when considering precarious work. Of course not all forms of ‘non-standard’ work can be characterised as ‘precarious’ but there is certainly a higher general risk of precariousness in those forms than in permanent employment”.

The issue of the position of part-time and, especially, temporary workers in relation to the occupational dialogue on health and safety measures is an important one. Some people enter one or more of these situations out of choice, or, at least, voluntarily. The pressures of caring and the need to earn extra income ensure that the majority of the precarious workforce is women in part-time work because women generally take on personal caring responsibilities as well as entering paid employment. The Table below indicates how part-time work and fixed-term work have increased in the EU in recent years. It also illustrates how part-time work is a gender issue, in contrast to fixed-term work, where there is a much smaller difference between men and women in terms of the proportion working under this form of contract.

Between 2000 and 2006 fixed term work increased by 18% and part-time work by 25%. In the same period the increase in female employment has been almost twice that for men ⁽²¹⁾.

According to the ETUC, however, there is an issue with regard to the involuntary nature of many of these contractual arrangements, with an increase from 15% in 2002 to 20% in 2006, of part-time workers declaring that they were involuntary part-time workers. The figures, according to the ETUC, show that there is “excessive flexibility in the

European labour market. This leads to a number of problems: firstly, that flexible workers receive less training; secondly, that upward mobility is low; thirdly innovation is held back because of a lack of commitment from temporary workers; finally, it provides businesses with an easy way out to address competitive challenges – hire and fire rather than innovate” ⁽²²⁾.

Employment status

The 91st conference of the ILO ⁽²³⁾ had, as part of its second item, the issue of the employment relationship. It summarised: The situation of dependent workers who are not covered by legislation on the employment the employment relationship, on account of their disguised or ambiguous employment status, is a worldwide problem which lies at the heart of labour law, as the effectiveness of national and international labour legislation depends on it. This problem is prejudicial to the workers concerned, but it is also likely to prove damaging to enterprises, jeopardise social peace and place the health and safety of the population at risk”.

It was also the subject for discussion at a meeting of Experts on Workers in Situations Needing Protection in 2000 ⁽²⁴⁾. The concern was that concealment and ambiguity in the employment relationship are likely to lead to a real lack of protection of workers, by totally or partially preventing the application of labour legislation. One of the strategies recommended was the application of basic rights to all workers.

The European Foundation carried out a comparative study in 2002 ⁽²⁵⁾ which had contributing material from 16 Member States. It stated that the issue is relevant from the industrial relations point of

Growth of precarious employment in the EU ⁽²⁰⁾ (% age of total employment)

Type of work	1998	1999	2000	2001	2002	2003	2004	2005	2006
Male									
Self-employment	20.2	20	19.9	19.8	19.9	20.1	20.1	19.7	19.7
Part-time	6.3	6.4	6.5	6.6	6.6	6.7	7	7.4	7.7
Fixed-term	11.1	11.3	11.7	11.7	11.6	12	12.7	13.5	13.9
Female									
Self-employment	14.5	14.3	14	13.8	13.4	13.2	13	12.8	12.7
Part-time	28.7	28.5	28.9	28.6	28.5	29	30	31	31.2
Fixed-term	12.2	12.5	13	13.3	13.2	13.3	13.8	14.4	14.9

view since economically dependent workers do not generally benefit from the protection granted to employees both by law and collective bargaining, including provisions on health and safety, etc.

The important issue is that there are many self-employed workers who are in reality no different to employees in terms of subordination to the employer and dependency upon that employer except that they do not receive the levels of employment protection received by employees. This may happen, for example, in outsourcing situations where an employer contracts out some or all of its non-core activities. This lack of protection may well include not being covered by health and safety legislation.

Trade unions

I include trade unions as a job factor because it is apparent that a trade union that takes initiatives can make a difference. The trade union movement in Europe has shown concern and taken some action, at an EU level and within Member States.

Risk factors

A number of authors have tried to analyse the relationship between different contractual relationships and occupational safety and health. Quinlan, Mayhew and Bohle⁽²⁶⁾ concluded:

- the vast majority of studies (74) found a relationship between precarious employment and a negative indicator of OSH;
- with regard to outsourcing and organisational restructuring/downsizing, well over 90% of the studies found a negative association with OSH;
- with regard to temporary workers, 14 of 24 studies found a negative association with OSH;
- the evidence is less strong with regard to small businesses;
- findings of a small number of studies of part-time workers found no clear relationship between part-time work and negative OSH outcomes;
- five out of seven studies that considered gender issues concluded that women were especially vulnerable to adverse health effects.

Jobs which result from outsourcing may enter the category of dependent self-employment and may be the cause of insecurity. This in turn may characterise them as being part of the precarious work that can result from new forms of working.

Precariousness, according to the OSHA experts forecast⁽²⁷⁾, is caused by a combination of these

elements rather than by one aspect only. Work bearing such characteristics is generally considered to increase the risk of illness and injury. Precarious work takes different forms on today's job market. In the scientific literature it is often associated with non-standard forms of work such as temporary, part-time, on-call, day-hire or short-term positions and also with the increase in the prevalence of self-employment. Additionally, work at home and multiple jobs also contribute to the increasing significance of 'non-standard' forms when considering precarious work.

The analysis cites EUROSTAT data to show that temporary contracts are especially prevalent in Spain (33% of all employees had this kind of contract in 2005), and quite popular in Portugal (19%), Finland (16.5%) and Sweden (16%), whereas they are rather rare in the United Kingdom (6%), Luxembourg (5.3%) and Ireland (4%). EUROSTAT data showed that in 2005, in all EU-25 countries, 15% of women and 14% of men had a temporary job.

Additionally, the employees who seem to be at a special risk of precarious employment are migrant workers. The analysis cites the presentation of national data in the report by the Dublin Foundation⁽²⁸⁾ showing that in many countries temporary contracts are more prevalent among migrant workers than among national employees.

Quinlan, Mayhew and Bohle, according to the report⁽²⁹⁾, identified three sets of factors which appear to explain why precarious employment was linked to inferior OSH outcomes:

- economic and reward systems: there is greater economic pressure in terms of competition for jobs; pressure to retain a job and earn a liveable income; a significant group is engaged on piece-work or task-based payment systems; there may be 'corner cutting' on safety; pressure to take on high risk activities that have been offloaded by a larger organisation or refused by permanent workers;
- disorganisation: workers are liable to be less experienced; workers perform unfamiliar tasks and are less familiar with OSH rules; more difficult to coordinate decisions and anticipate dangers. These workers are also less likely to belong to unions or to have bargaining power; also multi-employer work-sites with more complicated lines of management control and more fragmented work processed;
- increased likelihood of regulatory failure: OSH regulatory regimes are designed to address full

time and secure workers in large workplaces. In a large number of industrialised countries most of the self-employed subcontractors and home based workers fall outside this regulatory protection.

There is sufficient evidence of the link between precarious work and vulnerability in health and safety. There are, of course, hazards that are generic to all occupations and hazards that are specific to some and which apply to all workers, regardless of whether they are regarded as vulnerable or not. The more generic hazards for vulnerable workers are those which are perhaps stress inducing. Stress is a major OHS issue and the consequences on individuals can be severe: "Stress is a work related disease of multicausal origin. It can be defined as a physical or psychological stimulus which produces strain or disruption of the individual's normal physiological equilibrium. The most frequent disorders range from chronic fatigue to depression by way of insomnia, anxiety, migraine, emotional upsets, stomach ulcers, allergies, skin disorders, lumbago and rheumatic attacks, tobacco and alcohol abuse, heart attacks and even suicide" ⁽³⁰⁾.

Stress can arise from *abuse and exploitation* by employers. In one analysis ⁽³¹⁾ of low paid and low skilled workers, which included a significant proportion of migrant workers, in the UK the following types of abuse were identified:

- summary dismissal, including pregnancy related and disability related dismissal;
- non payment of pay in lieu of notice; owed wages and holiday pay;
- bullying, sometimes linked to discrimination;
- denial of maternity and parental rights;
- late or non-payment of wages;
- non-compliance with the national minimum wage;
- non-payment of statutory sick pay.

Negative health effects can result from the *isolation* of workers, sometimes isolated from a home community or a work based one. Thus migrant women working in domestic or other employment, for example, may suffer from psychological and stress hazards, including isolation from family and community; lack of paid vacation and sick or maternity leave; inadequate protection of wages; rape, physical and mental abuse; over-extended working hours; and general lack of benefits or contracts ⁽³²⁾. For migrant workers, language may be an important issue leading to inadequate training opportuni-

ties in OHS.

Other groups of workers may be isolated because of the way in which their work is performed, e.g. teleworkers may suffer stress as a result of occupational isolation ⁽³³⁾, which may lead to insecurity about performance standards.

Insecurity can arise from this isolation. It can also be a major problem for those in temporary or casual work, causing stress which may arise from periods of unemployment. One category of potentially insecure workers are those often regarded as 'dependent self-employed'. These are those people who, perhaps as a result of outsourcing, have become ostensibly self-employed, but are entirely dependent upon the goodwill of one employer. This may include those who work from home. The issue of bogus self-employed people has been seen as an important issue for the ETUC ⁽³⁴⁾. Many self-employed people also work part-time and have longer working hours ⁽³⁵⁾.

Low levels of employment protection may arise because of the false employment status of workers. It also occurs because of the vulnerability of workers who work in isolation and who may not have the protection of trade unions or the benefit of applied collective agreements. Migrant women in domestic work are a good example of this. According to work done by the ILO ⁽³⁶⁾, domestic work is often exploitative. Major problems include long hours of work and heavy workloads; inadequate accommodation and inadequate food; lack of privacy and interference in personal matters; being vulnerable workers subject to abuse; arbitrary changes to work contracts, pay cuts or non-payment; low pay; lack of working benefits and being subject to violence at the workplace.

Thank you for your time.

I have tried to outline the link between the individual, the job and the resulting risks in a way that might be useful for future study of the subject.

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Note

- (¹) *Success at work: protecting vulnerable workers, supporting good employers*, Department for Trade and Industry, London, 2006.
- (²) See ILO, *Decent Work*, ILO International Training Centre, http://www.actrav.itcilo.org/library/labeled/english/decent_work_bklt_en.doc.
- (³) See www.vulnerableworkers.org.uk.
- (⁴) A. GOUDSWAARD, *New forms of contractual relationships and the implications for occupational health and safety*, European Agency for Safety and Health at Work, 2002, <http://www.osl.upf.edu/pdfs/contractual.pdf>.
- (⁵) M. QUINLAN, C. MAYHEW, P. BOHLE, *The Global expansion of precarious employment, work disorganization, and consequences for occupational health: a review of recent research*, in *International Journal of Health Services*, 2001, vol. 31, n. 2, 335-414.
- (⁶) S. DEX, A. MCCULLOCH, *Flexible Employment: A Statistical Analysis*, Equal Opportunities Commission Research Series, 1995, n. 15, 154.
- (⁷) See EUROPEAN COMMISSION, *Partnership for a new organisation of work*, Green Paper, Document drawn up on the basis of COM(97) 128 final, in *Bulletin of the European Union*, 1997, suppl. 4, http://europa.eu/documents/comm/green_papers/pdf/com97_128_en.pdf.
- (⁸) EUROPEAN COMMISSION, *Discrimination in the EU in 2009*, Special Eurobarometer, 2009, n. 317, http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_en.pdf.
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- (¹⁰) See, for example, S. SPENCER, *Equality and diversity in jobs and services: City policies for migrants in Europe*, Eurofound, 2008, <http://www.eurofound.europa.eu/publications/htmlfiles/ef0871.htm>; EUROFOUND, *Employment of migrants by CLIP cities*, 2008, <http://www.eurofound.europa.eu/publications/htmlfiles/ef0892.htm>.
- (¹¹) See EUROFOUND, *Counting the cost: working conditions of migrants*, 2008, <http://www.eurofound.europa.eu/publications/htmlfiles/ef08893.htm>.
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- (¹⁴) See www.eurofound.europa.eu.
- (¹⁵) P. DORMAN, *Child labour in the developed economies*, ILO, 2001.
- (¹⁶) D. PAPARELLA, V. RINOLFI, *Survey examines child labour*, Eurofound, 2002, <http://www.eurofound.europa.eu/eiro/2002/06/feature/it0206107f.htm>.
- (¹⁷) M. TRENTINI, *Child labour in Italy analysed*, Eurofound, 2000, <http://www.eurofound.europa.eu/eiro/2000/12/feature/it0012363f.htm>.
- (¹⁸) E. BRUN, M. MILCZAREK, *Expert forecast on emerging psychosocial risks related to occupational safety and health*, European Risk Observatory Report, 2007, n. 5, European Agency for Safety and Health at Work, <http://osha.europa.eu/en/publications/reports/7807118>.
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- (²⁰) EUROPEAN COMMISSION, *Employment in Europe*, 2007.
- (²¹) *Ibidem*.
- (²²) ETUC, *Annexes to the Resolution The coordination of collective bargaining 2007*, Annex 1, *Precairous work in Europe*, 2006, in www.etuc.org/a/3171.
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- (²⁵) EIRO, 'Economically dependent workers', *employment law and industrial relations*, 2002, <http://www.eurofound.europa.eu/eiro/2002/05/study/index.htm>.
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- (²⁷) E. BRUN, M. MILCZAREK, *op. cit.*
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